Municipal Elections Act Review Committee Discussion Paper

August 2002

INTRODUCTION

BACKGROUND

In anticipation of municipal elections to be held next in 2004, Service Nova Scotia and Municipal Relations (SNSMR) in conjunction with the Office of the Chief Electoral Officer, the Union of Nova Scotia Municipalities (UNSM) and the Association of Municipal Administrators (AMA), has undertaken a review of the legislation affecting municipal and school board elections.

COMMITTEES' MANDATE

Two Committees were established: the Technical Committee and the Steering Committee. The Committees were responsible for an extensive review of the legislation affecting municipal and school board elections in Nova Scotia. Their mandate was to examine the rules governing municipal and school board elections and to modernize the legislation governing these elections.

The Committees were charged with identifying issues in the current municipal and school board election process and to review the legislation in order to develop provisions to deal with these issues, as well as to identify emerging trends and technologies that may impact on future elections in the Province.

Following the municipal elections in 2000, a survey was sent to all municipal units in order to identify issues of concern that should be addressed by the review. All of the issues raised by the municipalities were discussed by the Committees. Committee members were also able to identify additional issues that may not have been raised as a result of the survey.

The Department of Education suggested individuals to consult in respect to school board election issues. These school board representatives were invited to participate in a Technical Committee meeting dedicated to discussing the issues pertaining to school board elections. The Department of Education also had a representative on the Technical Committee and the Minister of Education was a member of the Steering Committee.

The Committees reviewed the *Municipal Elections Act* on a topic by topic basis, and this report therefore follows that approach. Throughout, section references are to sections in the *Municipal Elections Act*, unless otherwise stated.

The Technical Committee offered comments and recommendations to the Steering Committee on the topics outlined, however the final decisions were those of the Steering Committee.

This report represents the Committees' work. Upon delivery of this report to the Minister of Service Nova Scotia and Municipal Relations, the Department will commence to review the report as a basis for future Departmental legislation. Comments to assist in developing final legislation should be submitted by ~~October 18, 2002~~ to: NOV 1 , 2002

Dianne Grant, Policy Analyst,
Service Nova Scotia and Municipal Relations
PO Box 216
Halifax, Nova Scotia B2J 2M4

COMMITTEE MEMBERSHIP

The Technical Committee commenced meetings in October of 2001, and met seven times. The Steering Committee met five times.

The following people have served on the Municipal Elections Act Review Technical Committee:

John Cameron, (Chair) Departmental Advisor
Service Nova Scotia and Municipal Relations

Jacquie Farrow-Lawrence, Returning Officer and Municipal Officer
Municipality of the County of Annapolis

Janet Willwerth, Municipal Elections Officer and Chief Electoral Officer
Office of the Chief Electoral Officer

Vi Carmichael, Returning Officer and Municipal Clerk
Halifax Regional Municipality

Bernie White, Returning Officer and Municipal Clerk
Cape Breton Regional Municipality

Bea Renton, Returning Officer and Town Manager/Clerk
Town of Lunenburg

Megan Edwards, Policy Analyst
Nova Scotia Department of Education

Cathleen O'Grady, Department of Justice Solicitor
Service Nova Scotia and Municipal Relations

Dianne Grant, (Secretary) Policy Analyst
Service Nova Scotia and Municipal Relations

The Steering Committee members were:

Honourable Angus MacIsaac (Chair)
Minister of Service Nova Scotia and Municipal Relations

Ronald Chisholm, MLA
Guysborough-Port Hawkesbury

Honourable Jane Purves
Minister of Education

Mayor Peter Kelly
Halifax Regional Municipality

(continued)

Steering Committee Members (continued)

Deputy Mayor Arnie Mombourquette
Cape Breton Regional Municipality

Councillor Madonna Spinazola
Municipality of the County of Kings

Janet Willwerth, Municipal Elections Officer and Chief Electoral Officer
Office of the Chief Electoral Officer

Dianne Grant, (Secretary) Policy Analyst
Service Nova Scotia and Municipal Relations

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Appendix A
Recommendations of the Municipal Elections Act Review Committee, in legislative form, for discussion purposes only.

1.0 VOTER QUALIFICATIONS

1.1 **Residency Requirements** (Section 14(c))

Discussion:

The Act establishes a 3-month residency requirement in the municipality to vote. The 3-month residency requirement was discussed because of the concern that people become disenfranchised if they move from one community to another within the 3-month period. The feeling expressed was that the 3-month residency requirement was unreasonable, especially for people moving from one part of the province to another, and who had familiarity with the issues and the people in their new community. The Committees discussed three options.

Options:

1. *Leave as is with a 3-month municipal residency requirement.*
2. *Correspond with Province with a 6-month provincial residency requirement (and vote where you are ordinarily resident at election time).*
3. *Correspond with Federal Government (vote where you are ordinarily resident at election time).*

The decision was that it is simpler to allow people to vote where they live on election day, without trying to ascertain how long they have lived in the province.

Recommendation: The 3-month residency requirement be removed, so that voters may vote where they reside on ordinary polling day regardless of how long they have lived in the municipality or the province.

1.2 **Ordinary Resident/Student Voting** (Section 16(2))

Discussion:

Students who are ordinarily residents of another province may have the opportunity to vote in Nova Scotia municipal elections because they also can be considered ordinarily resident of the community where they are attending school. Nova Scotian students who are attending school in a community other than their home community in the province sometimes feel disenfranchised because their ordinary residence under the Act is where their family home is located. This results in some students being unable to vote because they are not able to return to their family homes to vote or to arrange for a proxy vote. The current legislation does not allow them to vote in the community where they are attending school even though they may be familiar with the issues and the candidates in that location.

Options:

1. *Leave as is (N.S. students must vote where their families live).*
2. *N.S. students must vote where they go to school.*
3. *N.S. students have the option to vote either where their family home is or where they go to school (which is the same as the provincial requirement).*

The issue of "block voting", particularly in reference to university students was raised, however it was noted that this has not been an issue that any of the committee members could recall to date.

Permitting students to have a choice as to whether they vote where they attend school or where their family home is located will treat all students the same whether they are from Nova Scotia or from another province.

Recommendation: It is recommended that the Municipal Elections Act S.16 be revised to correspond to the provincial *Elections Act* so that students would have the option of voting at their home or at their place of residence when attending an educational institution in this province, but that they could vote in one location only. This also will clarify the issue of ordinary residence generally, and make the two Acts similar.

2.0 RETURNING OFFICERS

2.1 Appointment of Returning Officer (RO) (Section 4(1B))

Discussion:

It was recommended that the Returning Officer should be involved in the beginning of the election process, and should be appointed by March 15 to acquire the necessary training in order to carry out the duties of the position and to meet the requirements in S.9 for determining the polling divisions.

Options:

1. *Leave as is (the date of appointment is not specified but Returning Officers are required to finalize polling divisions by March 31).*
2. *Set a date by which Returning Officers are to be appointed in order to oversee the designation of polling divisions and maximize opportunity to participate in training sessions.*

Recommendation: The Act be revised to provide for the Returning Officer to be appointed by March 15 in the regular election year.

2.2 Contract Returning Officers (Section 4(1))

Discussion:

Concerns were raised about the municipal clerk acting as the returning officer in some circumstances. There can be a perception that the clerk is not impartial, as his/her loyalties could be to the incumbent council. Some clerks have also expressed concern with the added work and responsibilities that carrying out an election entails, and questioned whether they are being suitably compensated.

Recommendation: Continue to allow each council the option of appointing a contract returning officer where appropriate and clarify this option in Section 4.

2.3 Eligibility of Returning Officers to Vote (Section 15)

Discussion:

Not being eligible to vote contributes to the acceptance that the Returning Officer is impartial. It was noted that a Returning Officer who lives outside the municipality is entitled to vote where s/he lives for the election(s) for which s/he is not the RO.

Options:

1. *Leave as is (Returning Officers are not permitted to vote in the election(s) for which they have been appointed as Returning Officer).*
2. *Allow Returning Officers to vote in the election(s) for which they have been appointed as Returning Officer.*

Recommendation: The Returning Officers continue not to have the eligibility to vote in election(s) for which they have been appointed RO.

3.0 ELECTION DATES

3.1 Ordinary Polling Date (Section 2(1)(v))

Discussion:

The possibility of moving the election date to avoid conflicting with the Union of Nova Scotia Municipalities conference was brought up, but this was determined to be an issue that should be addressed by the UNSM. The date is chosen so as not to conflict with Thanksgiving weekend.

Options:

1. *Leave as is (3rd Saturday of October).*
2. *Change to another date.*

Recommendation: Leave ordinary polling day as the third Saturday in October.

3.2 Special Elections - Calendar (Section 13(2))

Discussion:

The question was raised whether the 10 week time period after the meeting in which the date is set for the special election provides sufficient time to run the election. The calendar provides for the shortest possible time period -- 7 weeks. In order to accommodate circumstances, the Act permits the election to be scheduled up to 10 weeks after the meeting.

Options:

1. *Leave as is.*
2. *Extend the time period.*

Recommendation: 10 weeks is a reasonable time period to run a special election.

3.3 Special Elections - Advertising (Sections 13(6) and 114(6))

Discussion:

Special Elections Advertising - there is a problem with the time periods due to weekly newspapers in some areas vs. daily newspapers in others. The problem is the requirement to have two advertisements for advance polls. With the publication schedule of most weekly newspapers, this requirement cannot be met. Section 13 indicates that the special election be held "as nearly as may be in accordance with the provisions governing regular elections".

Options:

1. *Leave as is (2 advertisements).*
2. *Allow for 1 advertisement as a minimum.*

Recommendation: Reduce revision advertisement requirements to one advertisement. Amend S114(6) to say "at least once" instead of "at least twice" so that municipalities can advertise more than once if they are able to or choose to, but the change will be specifically beneficial to areas served by a weekly newspaper.

4.0 LISTS OF ELECTORS

4.1 Municipal Voters Lists (Sections 30, 30A and 30B)

Discussion:

There is an apparent need to re-write some of Section 30. In S.30(2) the wording is confusing with respect to municipal elections. It was suggested to delete the 12-month limit on using provincial, federal or municipal voters lists from 30(1). (Provincially the Chief Electoral Officer can decide what list is appropriate and has no legislated time constraints in choosing the source of a list of electors.)

The question was raised as to whether it is appropriate for the municipal staff, or the elected people to choose the method of doing the list. This was determined to be a policy decision affecting municipal budgets and so is something for council approval. Cost can be a significant issue for some councils and therefore cost savings may be a determining factor in some instances.

Discussion ensued concerning parallels between municipal and provincial elections procedures. The Chief Electoral Office is looking at adapting the federal and provincial lists for municipal elections with the intent that eventually the Elections Office will be able to run the

federal list for municipal elections. Therefore the federal government's concern regarding issues of privacy must also be considered.

Recommendation: (1) Amend Section 30 to remove the 12-month time limit to use list from a previous election and to combine it with S.30A concerning the use of a permanent register of electors; (2) Have council approve the method of preparing the preliminary list of electors including whether or not enumeration is appropriate, in a regular election situation; (3) Allow the Returning Officer to choose the method of preparing the preliminary list for special elections; (4) Delete subsections 30B(1) to (3) as they now are in the provincial *Elections Act*.

4.2 Posting Municipal Voters Lists (Section 32)

Discussion:

The restriction on posting the preliminary list of electors only in public buildings was discussed. There are problems arising from the requirement to post the list in public buildings and the fact that there are no public buildings available in some polling districts in some municipalities. The value of having the list posted was reaffirmed as it allows the voters to see that they are on the list, their neighbour is on the list, etc. Currently, there is no individual notification system required. To do so, would be an additional expense.

The issue of privacy in relation to personal information on the final voters list, and public access to names and addresses of electors was discussed. Some voters take exception to having the voters list posted in a public place as it is an issue of privacy.

The issue is one of making the list accurate and broadly accessible, while maintaining the privacy of the information on the voters list. The intent is to have the list located in an area where it is not likely to be stolen or removed.

Options:

1. *Leave as is (continue to post voters list in public buildings only).*
2. *Do not post list and require personal notification.*
3. *Post the voters list more widely.*

Recommendation: Continue to post the voters list. The Chief Electoral Officer will seek the Federal Government's position on permitting the list to be posted in other than public buildings.

4.3 Revision of the Preliminary List of Electors - Notification (Section 34)

Discussion:

Discussion ensued regarding the process of notifying voters of the revision process and problems with advertising versus individual notifications.

Options:

1. *Leave as is (requiring two newspaper advertisements notifying public of revision period)*
2. *Require at least one newspaper advertisement with the option of additional or different types of notification.*
3. *Require personal notification.*
4. *Permit each council to authorize such further notification as is recommended by the Returning Officer.*

Recommendation: Reduce the required number of advertisements to at least one. And if the Returning Officer thinks additional notification is warranted, s/he would request council approval for this expenditure.

4.4 Revision of the Preliminary List of Electors - Timing (Section 38)

Discussion:

Timing is an issue with regard to the revision of the list and the question was raised whether Section 38 could be changed to allow some of the revision to take place in September. At present, the final list of electors is to be completed before the thirty-first day of August.

Options:

1. *Leave as is.*
2. *Set a new revision period.*
3. *Allow municipalities to set the time needed based on the advice of the Returning Officer, as some need more time than others.*

Concern was expressed about different revision times in different municipalities creating public confusion, but it was felt that the needs of different sizes of municipalities have to be accommodated.

Recommendation: Revision time should be set by each Council on the advice of the Returning Officer to allow as long as is necessary. However, the cutoff day for having the final voters list prepared should be one day before nominations are accepted.

4.5 Copying the Voters Lists (new Section 32(5))

Discussion:

The issue of copying voters lists was discussed with particular reference to the fact that some Returning Officers are asked for or give incumbent councils copies of the preliminary list. Some Returning Officers expressed the view that incumbent councillors could be of assistance during revision. However, in most places, the final list is not given out until nomination papers are filed to allow the incumbent and the new candidate to start off on the same footing. The concerns are voters' privacy, the RO's obligation to exercise due diligence in protecting voters' privacy and an equal playing field for all candidates. Anyone who wishes to assist with the revision can view the list at the municipal office or where posted.

Recommendation: It should be clearly stated in the Act that no one may obtain a copy of the preliminary list. Copies of the final voters list should be available to candidates once nominated, but should be returned following the election.

4.6 Certificate of Eligibility to Vote (new Section 41A)

Discussion:

Provisions for the Returning Officer to permit additional proxies by allowing changes or additions to the final voters list were discussed. Introducing a certificate of eligibility system, such as the one used by the Province, would give the Returning Officer the ability to allow entitled people not on the voters list to nominate a candidate, obtain a proxy vote or a transfer certificate, or to vote without the oath at the polls via application to the Returning Officer. This would effectively address some of the problems at the polls, and would assist in ensuring that people do not feel disadvantaged for having been left off the voters list.

Recommendation: Changes to the Act to allow voters to obtain a certificate stating that although their name is not on the list, the voter is eligible to vote in the election. The cut off date would be the same as for transfer certificates, the Wednesday prior to ordinary polling day.

5.0 NOMINATION

5.1 Nomination Day (Section 44(2))

Discussion:

Nomination day was reported to be too close to the election date. Because of the number of ballots that need to be printed, extra time would be useful. This would also give candidates more time to campaign. Because moving the nomination day forward a week will mean that nominations can be accepted by appointment during the Labour Day week, nomination day should be changed to the second Tuesday in September rather than the second Monday so that there will still be five days available for nominations by appointment in the preceding week.

Options:

1. *Leave nomination day as the second last Monday in September.*
2. *Change nomination day to the second Monday in September.*
3. *Change nomination to the second Tuesday in September.*

Recommendation: Nomination Day now is the second last Monday in September. The Committees agreed to change this to the second Tuesday in September and continue to provide that the Returning Officer can accept nominations by appointment for the 5 business days prior to nomination day. The nomination day for special elections also should be Tuesday to avoid problems with holiday Mondays.

5.2 Nomination Papers (new Section 48(4))

Discussion:

Public access to nomination papers was raised as an issue. Because of heightened awareness of privacy issues, concern was expressed about the public's access to nomination papers that have been filed, and exactly when Returning Officers should release the names of candidates who had filed nomination papers. The practice commonly followed is not to release names until after nomination day.

There is some expectation of privacy for people who pick up nomination papers, but it was felt that there should be no expectation of privacy once the nomination papers are filed.

It also was agreed that the nomination papers should clearly state that they can be used only to nominate for Mayor or councillor or school board member and are not interchangeable.

Options:

1. *Allow public access regarding persons who have filed nomination papers once nominations close.*
2. *Allow public access regarding persons who have filed nomination papers as each nomination is accepted.*

Recommendation: It was decided that nomination papers should be open for inspection on the date the Returning Officer signs the receipt, so once each nomination is accepted, it is available for public inspection. It should be clearly stated on the form that nomination papers are public documents. It also should be clear that they are not interchangeable.

6.0 CANDIDATES

6.1 Deposits (Section 51)

Discussion:

The deposit is not intended to cover the cost of the election, however it was suggested that administrative matters such as removal of signs, return of the voters list etc. continue to be tied to deposit refunds. It was also suggested that deposits be non-refundable or that half of the deposit be refunded on filing of the statement of contributions.

Options:

1. *Leave as is (conditional upon removal of advertising signs).*
2. *Also make the deposit return conditional upon return of voters list and filing statement of contribution.*
3. *Also make the deposit return conditional upon return of voters list.*

It was concluded that the refund works well to tie up loose ends, and that the return of the voters list could be conveniently done at the time of filing the affidavit respecting signage

removal. It was determined that holding half of the deposit until the campaign contributions disclosure statement is filed would add further complications to the process.

Recommendation: The deposit refund be conditional on returning the voters list and filing the affidavit respecting signage removal.

6.2 Tax Certificates (Section 44(4))

Discussion:

The question was asked whether or not tax certificates should still be required for municipal candidates.

Some committee members felt that the principle of requiring tax certificates (not being a position of indebtedness to the municipality) is a good one. However, some questioned whether the nomination process should be tied to tax collection.

In some municipalities, tax bills are held back so that bills are not sent out so close to nomination day in case they would adversely impact on nominations for elections.

Under the current legislation the tax certificate in addition to taxes, must cover "other charges of all kinds", which may include parking tickets, dog licenses, etc. This creates an onerous responsibility on the part of the municipality to check all these things to ensure a candidate's eligibility.

Options:

1. *Leave as is (keep a tax certificate requirement respecting rates, taxes and other charges of all kinds due).*
2. *Have the tax certificate reference rates and taxes only, remove the reference to other charges.*
3. *Have the tax certificate reference rates, taxes and other charges that are liens, to limit the charges to those that appear on a regular tax certificate.*
4. *Remove the requirement for the certificate.*

It was agreed that if the certificate is kept, that only charges that are liens should be required to be checked and noted.

Recommendation: That the requirement for tax certificates be removed from the Act.

6.3 Campaign Contributions Disclosure (new Section 49A(12))

Discussion:

The Act should state clearly that failure to file a statement of contributions or filing a false statement is an offence against the Act. It was requested that it be clearly outlined in the Handbook that it is not the responsibility of the clerk to lay a complaint against anyone who fails to file disclosure papers within the required time period.

Recommendation: The Act should state that failure to file a disclosure statement is an offence.

6.4 Contract with a Regional Municipality (Section 19)

Discussion:

At one time, the City of Halifax had a by-law prohibiting people with contracts with the city from becoming candidates. Section 19 is authority for this type of by-law, for regional municipalities only. None of the regional municipalities have such a by-law.

Recommendation: Repeal S.19 as it is no longer used.

6.5 Withdrawal by a Candidate (Section 53)

Discussion:

A form to be used for candidates who need to withdraw from the election would be helpful.

Recommendation: A form be prescribed for use by candidates who wish to withdraw.

6.6 Tax Credits for Campaign Donations

Discussion:

The ability for a donor to the campaign of a municipal or school board candidate to receive a tax credit similar to that available for donors to federal or provincial campaigns was raised. Using provincial tax revenue for this purpose is not an option at this time, but there is precedent for a municipally-funded rebate scheme in Ontario, which can be implemented by municipal by-law. School boards are also able to establish a rebate program by by-law. To date, however, only 2 municipalities in Ontario have availed themselves of the program.

Options:

1. *Retain the current provisions - no tax credit or rebate for municipal or school board campaign donations.*
2. *Institute a provincial tax credit for municipal or school board campaign donations.*
3. *Institute a municipally funded rebate scheme for municipal campaign donations, or a school board funded rebate scheme for school board campaign donations.*

Recommendation: If there is support for this it should be a rebate scheme for donations to municipal or school board election campaigns, as a municipal or school board option, and funded locally.

6.7 Canvassing in Locked Apartment Buildings (new Sections 54A, 54B, 54C)

Discussion:

In the federal and provincial electoral legislation, there is provision to allow candidates to campaign in locked residential premises, such as apartment buildings and condominium residences.

Recommendation: It was agreed that legislation be amended to facilitate access to locked apartment buildings by municipal candidates.

7.0 VOTING

The issues of extending the time for obtaining proxy papers, voting in the R.O.'s office and write-in ballots were considered by the Committees and discussed at some length. The Steering Committee is not recommending or voicing objections to any of these issues but feel they should be put before municipalities for their consideration and response. Before final legislation is drafted therefore, the Committee would like there to be input from the municipalities and from the public on these and other issues that may be of concern.

7.1 Transfer Certificates (Section 73(1)(e))

Discussion:

The continued need for transfer certificates was discussed. Agents and election workers may use them or vote at the advance poll. Proxies are also available for election workers and candidate's agents, however not many have asked for them in the past. The certificates are used occasionally and may be useful in some cases.

Recommendation: It was decided to leave Section 73(1)(e) as is, in case it's needed for a person who has special needs or by an election worker, agent, etc.

7.2 Proxy Voting (Section 76)

Discussion:

Should proxy papers be able to be issued up to and including election day? There is concern about getting the information to the Deputy Returning Officers (DROs) at this late date. Transfer certificates can be issued later because there are fewer of them.

Some complaints were received by candidates in the last election from electors who were unable to obtain proxy votes. The Steering Committee felt that some voters were being disenfranchised and expressed a preference for a shorter time period. The Steering Committee requested that the Technical Committee examine whether the cut-off day for the issuing of proxies could be closer to election day. The Technical Committee responded that a reduction in the cut-off for issuing proxies is not recommended for the following reasons:

- For the large municipalities particularly, the last week of the election calendar is extremely busy. The two advance poll days are held, as well as the training of the poll workers for ordinary polling day. All the election supplies have to be distributed to each poll worker, which includes the proxy papers issued for each poll. It is important that poll workers be trained in the administration of the proxy vote.

- Each proxy paper has to be given to the correct DRO for the poll in which the proxy is to be exercised. In the case of CBRM, for example, there were 628 proxies in 2000. These proxies have to be given to 244 separate polls. Although there were only 122 proxies in HRM, they have to be distributed between 1200 ballot boxes. It would be almost impossible to accomplish the placement of the proxies in the right ballot boxes if the time were reduced, given the other duties that must be carried out.

- The returning officer is the person with the responsibility for carrying out these duties, and any attempt to reduce the time could impact on their abilities to carry out the process effectively. This is especially true because there tends to be a rush for proxies at the last minute, and having that rush occur in the last week prior to ordinary polling day would be extremely pressured for the returning officer.

- In the case of a municipality the size of HRM, the training of the workers from the more rural parts (such as Hubbards or the Eastern Shore) is done earlier than the training for other workers. Training of workers for 1200 polls takes a lot of time, and it is important that the workers get all the materials that they will need at the training session.

Recommendation: No change was recommended, however municipal input on whether this is something that should be changed is requested.

7.3 Voting in Returning Officer's Office

Discussion:

There is a longstanding federal and provincial practice allowing voting prior to election day in the Returning Officer's office in addition to advance voting and write-in ballots or proxy voting. The Technical Committee looked at the option of early voting in the returning office. From their perspective, this did not seem to be a viable option in the municipal context, for the following reasons:

- Physical Space. Returning officers are often municipal clerks. There is not sufficient space in their quarters to set up a polling station, nor is their staff equipped to deal with voters. The space required for a regional municipality or a large municipality with a number of council districts could be quite big, because of the necessity of having separate ballot boxes for each district. There also needs to be space for agents to be present. In the big regional municipalities, there could be over 100 candidates running for all the offices. The poll would need to be accessible, which could be a problem for some returning offices.

- Need. The Technical Committee thought that, with widely-available proxies and 2 advance poll days, there was not a demonstrated need for additional voting opportunities.

- Voting Patterns. Because of the variety of offices being elected at a municipal election, the likelihood of having to distribute ballots on election day because there are fewer than 10 votes for a particular office at the returning officer's poll increases. This also adds pressure to the election day for the returning officer.

The Steering Committee favoured more opportunities to vote and considered if this should be a municipal option, but agreed that having different methods in different municipalities could cause confusion. It was decided that the report would reference that this option was considered but was not recommended at this time. If municipalities choose to look favourably on this option they can make their feelings known by responding to the discussion paper and making their views known at that time.

Recommendation: No change was recommended, however municipal input on whether this is something that should be changed is requested.

7.4 Write-in Ballots

Discussion:

The recent amendments to the provincial *Elections Act* provide for blank "write-in" ballots for early voting. They will be available to deal with situations where a voter knows in advance that he or she will be absent on advance voting days or election day. They can be mailed to an elector or obtained at the Returning Office. They are to be used in lieu of proxy voting.

- The Steering Committee asked that the Technical Committee examine the use of blank write-in ballots. The Technical Committee reported that:
    - Blank write-in ballots are used as a form of early voting, and in the federal and provincial context, are used by voters prior to nominations being finalized, and also as mail votes. (Note: because of the longer election period for municipal elections, it is possible that use of a blank write-in ballot would not be required – the candidates' names might be available in time to print the ballots.)
    - They necessitate the use of a "double envelope" system, which requires a complex counting process that has not been used before in municipal elections. As it is, the municipal count is complex, because of the number of offices that need to be counted, the necessity of transferring school board ballots to a central counting authority, and the length of time that may be needed.
    - There needs to be a polling station established in the returning office, with staff that can manage the write-in ballots. If write-in ballots are also used as an early voting tool, then there needs to be a proper polling station established, which raises the same concerns as the early voting in the returning office.

With regard to making the municipal election process more uniform with the federal and provincial election processes, it was emphasized that there are fundamental differences

between the municipal election process and the provincial and federal elections processes. In the federal and provincial elections, there are candidates running for one office, whereas in municipal elections we have numerous candidates for a number of different offices. Therefore to use a blank write-in ballot would overly complicate the whole election process.

The Steering Committee discussed that these ballots would eliminate the need for proxy voting, and therefore eliminate some of these problems. It was stated that if the proxy voting process was eliminated, the time of elections staff would be freed up to facilitate another option.

There was concern expressed that by eliminating proxy voting in favour of special ballots there could be a trading off of accessibility for security of the process.

Recommendation: No change was recommended, however municipal input on whether this is of interest to them is requested.

7.5 Mandatory Level Access (Sections 2(pa), 63 and 114)

Discussion:

Since mandatory level access for polling stations is a requirement in both federal and provincial elections, it should be mandatory for municipal elections also.

There is at present a requirement that advance polls be accessible. Also there has to be one accessible poll per polling district on election day. It was noted that some community halls are closing down and consequently some municipalities may find it difficult to find locations to serve as polling stations, however it is currently the practice for municipalities to ensure all polls are accessible, and that ramps are constructed where required.

Recommendation: The Act should require that all polls have level access.

7.6 Advance Poll (Section 114(3) and Form 36)

Discussion:

It was unanimously agreed by the Committees that the declaration respecting the voter's reason for choosing to vote at the advance poll (Form 36) was unnecessary and could be eliminated. The advantages will be that anyone can choose to vote at an advance poll, and the advance polls will be simpler to run.

Recommendation: Remove the requirement for voters to have a reason for voting at the advance poll and repeal Form 36.

7.7 Voting Hours (Sections 57, 57A, 114)

Discussion:

The hours for voting on ordinary polling day are 8:00 a.m. to 7:00 p.m. (S.75). Mobile polls

can be open from 8:00 a.m. to 7:00 p.m. (S.57A). Advance poll voting hours are 12:00 noon until 8:00 p.m. (s.114).

The matter discussed was whether voting hours should be shortened as the counting takes place after the polls close on ordinary polling day. This makes for a very long day for the poll workers who are not highly paid, and may increase the potential for mistakes in counting due to fatigue. It was noted that the long hours combined with the increased complexity of the process has increased the demand on the poll workers. The municipal election day is the same or similar length as the federal or provincial election day, however the work has become more complicated and stressful than provincial or federal election work because more matters are voted upon.

New hours suggested for ordinary polling day were 8:30 a.m. to 6:00 p.m. and for advance polling days, 12:00 noon until 6:00 p.m. or 7:00 p.m. (whichever matches match ordinary polling day) or 11:00 a.m. to 7:00 p.m. (as one RO noted that voters often are lined up when the advance polls open but it is less busy from 7:00 p.m. to 8:00 p.m., and this would provide for opening an hour earlier and closing an hour earlier). Possible benefits could include more accuracy in the counting process, less stress and fatigue for workers, hourly pay rates may be better as the rate is usually a daily rate, some building rentals may decrease. Possible detriments may include that shorter hours may be, or may be seen as, less convenient for voters, particularly where there are large populations of military and health care workers who work 12 hour shifts. More workers or better pay might address some of the concerns but would either be more costly or not address the issue of fatigue.

The Steering Committee felt the municipal hours should be consistent with the Federal hours (12 hours), or the Provincial (11 hours), and so should not be changed.

Options:

1. *Leave as is.*
2. *Shorten ordinary polling day hours to 8:30 a.m. to 6:00 p.m.*
3. *Shorten advance poll hours (12 noon to either 6:00 or 7:00 p.m.).*
4. *Change advance poll hours to 11 a.m to 6:00 p.m.*
5. *Hire more workers so a separate team can do the counting.*

Recommendation: Leave as is.

7.8 Time Off Work in Order to Vote (new Section 82A)

Discussion:

In the federal and provincial electoral legislation, there is provision for electors to have 4 or 3 consecutive hours to vote, respectively. The point was made that workers who work 12-hour shifts have difficulty voting. The Technical Committee noted that, in their experience, there had not been complaints from those unable to vote. As well, they noted that few people would need that much time to vote, and that any time off would have to be paid for by the employers. It was noted that there are advance polls, and the ability to get a proxy. The Technical Committee was of the view that this was not an issue that needs to be addressed at this time.

The Steering Committee felt it was worthwhile to standardize this process with the provincial process by allowing 3 hours to vote.

Recommendation: It was agreed to allow time off for municipal voters to cast their ballots, to match the provincial legislation.

8.0 PLEBISCITES

8.1 Plebiscites - Role of Citizens (Section 56)

Discussion:

Should citizens representing a side in a plebiscite be treated as "candidates", with access to voters lists, etc.? That is not the situation at present.

Recommendation: As a plebiscite under the *Municipal Elections Act* is not one side against another, but rather it is a municipality seeking the views of the citizenry, no change is recommended.

9.0 POLLING DAY ACTIVITIES

9.1 Presence of Candidates at the Polling Station (Sections 69 and new 107(4))

Discussion:

In some municipalities the election process is much more complicated and there is a larger turnout during municipal elections than sometimes is the case in a provincial election. There was concern expressed about the complications involved when there is a major movement of people at the polling stations such as in some locations that may have large numbers of ballot boxes. This requires diligence on the part of election workers to watch for problems. There was concern expressed about agents who come to the polls unprepared and without the necessary papers. If candidates were not permitted in the polling station it would tend to ease some of the confusion and disruption at the polls. A number of returning officers had voters complain about seeing the candidates at the polling stations. The Technical Committee appreciated the suggestion that candidates not be their own agents at the polls, but they felt that as long as candidates were permitted to be in the polls (other than to vote) the problems that they had experienced as returning officers would continue to exist. The problems are:

- candidates gathering around the entrance to the polling station
- candidates going to all the polling stations within a building to talk to poll workers or seeking information on who has voted
- very difficult to enforce a limited presence of the candidates in the polls.

Concern was expressed that in small rural municipalities, where people may be working in

a poll that may be fairly isolated, candidates would like to have the opportunity to bring coffee or lunch to their workers who may be at the polling station. In response, it was suggested that candidates could have a family member or another worker bring coffee or lunch to their elections staff. The intent must be to make the process of municipal elections as easy and un-intimidating as possible for the voter.

There also was concern expressed regarding the presence of candidates during the counting of the ballots, and whether there is authority to restrict agents or candidates moving from table to table during the counting process. It was pointed out that continuity in the counting is crucial, and this movement from table to table may be disruptive to the vote count. The original intention was to prevent a candidate or an agent from participating in the count at more than one polling station, however, this has not always been the interpretation.

Options:

1. Leave as is.
2. Not permit candidates to be at the polls except to vote or assist a family member to vote.
3. Clarify that candidates and agents can only be present for the count at one polling station.

Recommendations: Candidates should be restricted from being present at the polling station other than to vote or to assist a family member in voting.

Candidates and agents should clearly be restricted to observing the count for one polling station only.

9.2 Advertising Near Polling Stations (Section 155(1)(b))

Discussion:

The Committees agreed that enforcing the limits on signage near the polls is easier than dealing with the presence of candidates. Extending the limits to 500 feet was considered as was measuring the 200 feet limit from the property line rather than the building where the polls are located. The provincial standard is 200 feet from a polling station or the building in which a polling station is located.

Options:

1. *Leave as is (200 feet from polling station or building where polling station is located).*
2. *Change to be 200 feet from the building where a polling station is located.*
3. *Extend limit to 200 feet from property line of the building where the polling station is located.*
4. *Extend limit to 500 feet from polling station.*
5. *Extend limit to 500 feet from property line.*

It was agreed that ROs know where the 200 feet measurement ends, and that stating that it is from the wall of the building containing the polling place would clarify the situation, while

changing the distance or moving it to the property line would create more work for the ROs.

Recommendation: The Act be clarified to provide that signs cannot be placed within 200 feet of any wall of the building containing a polling station.

9.3 Candidates Acting as Their Own Agents (Sections 71(4) and 72)

Discussion:

The issue of candidates acting as their own agent was discussed. The Steering Committee pointed out that some candidates do not have a lot of assistance and so may need to be their own official agent. It was decided that it would be acceptable for the candidates to act as official agents, but not as poll agents, as their presence at the polls often seems to disturb voters.

Recommendation: That the Act be amended to allow candidates to act only as official agents but not as agents at a poll even if they are acting as their own official agent.

9.4 "Friend" of The Elector (Section 86)

Discussion:

The question was raised whether candidates should be able to act as "friends" of electors in order to assist them with their vote. In this case there may be a perception of having influence over the vote. There is also a possibility that someone could act as "friend" for a number of electors, which could be problematic in cases of nursing homes etc. It was felt that DROs should continue to be able to act as the "friend" of a number of electors, including nursing home residents, but others should not.

Recommendation: Candidates should not be not permitted to act as "friends" of the electors unless they are family members. Also, the Act should limit the number of persons a "friend" (other than a DRO) may assist to just one elector unless the electors are members of the "friend's" immediate family. (This would be the same as the restriction on proxy voters in Section 76).

9.5 Return of the Ballot Boxes (Section 112(1))

Discussion:

There was discussion that ballot boxes should be delivered from the polling places to the RO as soon as possible after the ballots are counted. The Act requires that they be delivered "forthwith".

Recommendation: The Returning Officer would be responsible for making arrangements for the return of the ballot boxes. This would ensure that arrangements have been made to have the box returned, or where circumstances warrant, to have the box picked up.

10.0 CHALLENGES TO AN ELECTION

10.1 **Enforcement** (Section 158)

Discussion:

Should there be a provincial official designated to police polling stations, conduct investigations, allow for charges to be laid, or have an election challenged?

At the provincial or federal level, there is the support of a party to pursue a challenge to an election. The point has been raised that the cost to challenge a municipal election is prohibitive for a private citizen without access to the party system or an official who can go forward on their behalf. There also have been questions raised regarding provisions at the municipal level to deal with complaints. The elector can call the Municipal Elections Officer, however the municipal Returning Officer is not bound to adhere to the Municipal Elections Officer's advice, nor the Council's advice. Is there a need or a method to set up such a provision at the municipal level to deal with elector complaints regarding an election or the Returning Officer?

Recommendation: Most complaints are dealt with cooperatively. Most challenges (there are few) are settled once legal advice is obtained and those that are not have proceeded to court with the support of the electors who have the information and the concern. This is not an issue that needs additional resources at this time.

10.2 **Access to Poll Books** (new Section 140(1A))

Discussion:

There are a number of privacy issues in respect to the poll books as the records indicate who voted, which ballots they took, whether they made a declaration, etc.

Recommendation: The poll books be permitted to be inspected by candidates and agents for 21 days after the election as they have 21 days to apply for a vote to be void under S.158. Otherwise, they are to remain closed unless ordered open for inspection by a court for legal cases. There are to be no photocopies made of poll books. "Inspection" means the poll book can be inspected, and notes can be taken on the contents.

10.3 **Swearing-in New Councillors** (Section 55)

Discussion:

Section 55 provides that when a candidate wins by acclamation, s/he is sworn in at the first meeting after ordinary polling day. In the case of special elections, there may be no need for ordinary polling day due to the acclamation, so the swearing-in should be able to be held earlier.

Recommendation: Section 55 be revised to allow an acclaimed candidate at a special election to be sworn in sooner if no ordinary polling day is required due to the acclamation.

11.0 ALTERNATIVE VOTING METHODOLOGY

11.1 Alternative Election Technologies (New Section 146A)

Discussion:

A number of new technologies have been introduced in other jurisdictions in recent years, and the Technical Committee looked at several of these options to see if they were appropriate for use in Nova Scotia. Some of the options reviewed included:

Direct Recording Electronic (DRE) Devices

Special-purpose or PC-based computers are used as voting machines in some areas. Voters use touch screens or push buttons to select choices. This technology provides that there are no paper ballots and no paper record. Recounts are handled exactly the same as the original count. One potential issue identified with this method is the accumulation of fingerprints on the screen. This could give some indication as to which candidate is receiving the most votes. However, this could be addressed by scheduling regular cleaning of the computer screens throughout the day.

Poll Site Internet Voting

This alternative involves the elector casting his/her ballot at a public site with elections officials controlling the voting platform (hardware and software as well as the physical environment). This could be seen as a first step in the phase-in approach towards internet voting.

Kiosk Voting

An intermediate alternative between Poll Site voting and Remote Internet voting. Voting terminals would be tamper-resistant and located in convenient places like malls, post offices, or schools, but remain under the control of election officials. Kiosk voting could be monitored by election officials, observers or even cameras to address security and privacy concerns, and prevent coercion or other forms of intervention. (*Stage two of the phase-in approach to internet voting.)*

Remote Internet Voting

Casting ballots through home or work computer. This method presents the most risky option due to the possible introduction of malicious computer programs such as trojan horses, viruses, as well as the risk of hackers compromising the election process.

Mechanical Vote Counting Machines

The use of mechanical counters was discussed briefly. There were a number of problems raised concerning these machines. Machines can only read certain elements, (maybe an X), and they are not able to make a decision in situations where judgement is required. It was suggested by the Technical Committee that a count done in the traditional way would produce more accurate results.

Telephone Voting

Brief discussions were held regarding telephone voting. There are concerns regarding accountability, potential for fraud and the ability of the technology to support a province-wide

election.

Some of the technologies may be of interest to some municipalities; therefore the use should be authorized if the municipalities with an interest adopt a by-law to cover the necessary details.

Recommendation: That the Act authorize the use of alternative voting technologies as an option by allowing Council to adopt a by-law governing the use of the new method.

11.2 Mail-In Voting (new Section 146A)

Discussion:

A number of Canadian municipalities have used mail-in voting recently, so it was considered by the Committees. Questions raised regarding mail-in voting include:

- How are the votes to be counted?
- Will we need to hire extra people to count the ballots?
- Is this to be a province-wide process or will it be a municipal option?

Although the possibility for fraud may be increased, and the likelihood of spoiled ballots is also increased, the option remains viable. An increase in voter participation has been observed in municipalities that have used mail-in voting. There was a concern expressed that costs could increase because of the necessity of also sending out school board ballots and information. However, these costs were easily quantifiable.

With respect to costs, the Technical Committee observed that there would be more people required to count, but that there should be savings in holding the vote and training. It noted that it is hard to determine what, if any, the total cost savings might be. Cost savings might be greater as more mail-in elections are run, and the process streamlined.

The Committees felt that there would more likely be support for mail-in voting in the larger municipalities. In the smaller communities, the social aspect of voting remains important.

Mail-in voting could be used for a part of, or for all of an election. It could be a requirement for the whole election process, some elections, or as an option in either version for voters (proxy votes could be replaced entirely with a mail in ballot). However, holding a traditional election with a mail-in component initially appears to add another layer of bureaucracy.

As in any new process, getting the correct information to the voters would be very important. Suggestions included an earlier mail-out or flyer drop-off of generic information to people noting that ballots are going to be mailed out the following week and providing a telephone number should they not receive one specifically addressed to them. A polling station would still be required for people who are not on the list. The completeness of the voting information package that would be sent to voters would be critical.

Any appropriate declaration form would have to accompany the ballot. Discussion continued on the possible size and weight of the information required to support all of the

elections, and subsequently the cost of producing and mailing these packages.

Mail-in voting would create the possibility that school board ballots could be returned directly to the school board. If the whole election is by mail-in, then one envelope could go to the municipality and the other could go to the school board. Someone from the school board would have to be named as Returning Officer or Counting Officer.

Details would have to be worked out on how a mistakenly spoiled mail-in ballot would be replaced, what constitutes a spoiled ballot, etc.. Mail-in ballots would have to be received before or by the close of polling day. The receipt and delivery of the ballots would be handled by Canada Post.

With a mail-in vote, the onus is on the voter to make the right choices and put the right papers in the right envelope or it becomes invalid. Literacy issues also may cause problems for some voters.

Where a municipality has many different districts, it was acknowledged that a larger coordination of efforts would be required -- for instance, the return envelopes could have district numbers clearly visible on them, for ease in sorting when they are returned.

The recent Saint John's, Newfoundland election experience, which was strictly a mail-in vote, was discussed at length. The experience there was positive, except for the situation regarding the death of the candidate after the ballots had been mailed out. The Committees had the opportunity to examine an Ontario mail-in ballot and review information from other areas where mail-in voting is held.

Recommendations:

- **Municipalities be permitted to use mail-in voting by adopting a by-law.**
- **The process be optional for each municipality.**
- **The mail-in option would apply to the whole election process, and not as an option to replace proxy voting.**
- **The electorate would have to be well-informed about a new process, probably by having flyers delivered to the homes in advance of the ballots being sent out. The flyers would alert electors that the ballots are coming, with a number to call if one was not received by the named date.**
- **Traditional polling stations would have to be established for people to use who did not receive a mail-in voting package. They would still use the mail-in ballot. There would also have to be drop-off/pick up areas for these ballots. However, care must be taken not to run a traditional election alongside a mail-in vote.**
- **Part of the system would have to include a way for an elector to get a spoiled ballot exchanged.**
- **A total mail-in system raises the possibility that votes for school board could be sent directly to the school board(s) for counting. In that scenario, the school board would have to appoint counting officers.**
- **For the larger municipalities, envelopes would have to be coded to allow for sorting when they were returned.**

- **Counting should be done by teams.**

12.0 COMBINED MUNICIPAL/SCHOOL BOARD ELECTIONS

12.1 Issues Regarding the Combined Municipal/School Board Elections

Discussion:

There is increased complexity of the process due to the combined Municipal, CSAP, ANS representative on the Regional/District School Board, and the Regional/District School Board elections. ROs are very concerned about controverted elections, and the complications arising from holding the school board elections (CSAP and ANS) in combination with municipal elections. The sheer number of people at the polling station are further exacerbated by the:

- complexity and numbers of forms to be signed;
- time involved with explaining the forms and the process to the voter;
- lack of awareness on the part of the voter and the need for complicated explanations;
- voter complaints and time involved with asking voters whether they wanted to vote for district/regional member or other school board member or school board; and
- voter complaints and reluctance to sign forms/declarations for school board elections.

The issue of public education is a vital component of the election process. Representatives from the Council on African Canadian Education, the Nova Scotia School Boards Association and the Conseil scolaire acadien provincial attended a meeting of the Technical Committee to provide input. These school board committee representatives reported that all the school board offices in the province have communications officers whose duties include holding public meetings to discuss the issues and the process. In addition, public awareness is addressed by ad campaigns in the papers, videos, pamphlets etc. which are revised at every election and provided to members of the public and candidates. It was stressed that the Nova Scotia School Boards Association (NSSBA) felt that the coverage of school board elections by the media was inadequate. However, it was recognized that there needs to be more communications between Returning Officers and school board communication officers, and the school board representatives at the Committee meeting expressed willingness on the part of school boards to do whatever they could given their limited resources to address this problem. The school board representatives reported that for school boards in general to have their own separate elections could be cost prohibitive and impact voter turnout, however, options such as mail-in voting, especially in areas where voter turn out is consistently low, could be a solution.

The school board representatives at the Committee meeting indicated that the process for electing special candidates for CSAP and for the African Nova Scotian representative is still a relatively new procedure, and as with any innovation, there is a learning process.

The Technical Committee noted that complexity of the process can and has led to voter frustration in previous elections. Election workers have the added responsibility of explaining the process to each elector as they come in to the polling station to vote. There were reports of verbal abuse towards officials from the electors regarding school board elections. It was felt in the last election that electors were generally uninformed about the reasons for the various

school board elections and so the ROs and DROs were left to explain provincial policy.

Some consideration was given to methods of identifying the electors for special categories, and possible arrangements for separate enumeration. There was a suggestion of having the voter apply in advance for these special ballots. The need was expressed to make this complicated process make more sense for the voter and the election workers.

There are difficulties in getting people to administer the municipal elections due to the tremendous amount of work and expertise required, and the low amount of pay they are receiving. The issue of hiring extra people to do the count was discussed. It was decided that higher accuracy might be achieved by having two teams counting either simultaneously, or on two separate days effectively separating the municipal and school board counting processes.

The logistics involved in carrying out an election involving large geographic areas can also have considerable impact on the election process. For example, moving the ballot boxes from one end of the municipality to the other, or to another municipality, can be a major concern. The possibility of gathering all the ballots in a central location for counting after the vote takes place was raised, with the school board bearing responsibility for counting the ballots in the school board elections. However, if a second Returning Officer is appointed by the school board, and a problem arises, there are concerns over jurisdiction and who would be ultimately responsible. The concern was raised regarding the ballot boxes if a recount situation should arise. The possibility is there that every ballot box in every district could be impacted -- which could mean opening hundreds of ballot boxes.

The Committees agreed that the integrity of the election process is paramount and any alternatives would have to be addressed with this in mind.

It was suggested that the intent of the 2001 UNSM Resolution asking for the separation of the municipal and school board elections could be met in part by having the CSAP Elections held at the CSAP schools, and conducted by the CSAP board. This suggestion was not acceptable to the Department of Education.

The Council on African Canadian Education (CACE) participated in the meeting about school board issues and as a result wrote to the Committees that it was willing to recommend that the declaration for ANS voters no longer be required provided that appropriate posters be developed for the polling stations to inform voters about the ANS member elections and the designation of ANS office remains in the Poll Book. These suggestions were considered by the Committees to be very helpful and timely.

The Department of Education indicated that removal of the declaration requirements for the CSAP election would have to be requested by CSAP.

At least one member of the Technical Committee member expressed a belief that the changes recommended in Options 2 and 4 below would be sufficient to reduce complexity, confusion, time management and other concerns. Another member of the Technical Committee vehemently disagreed with the suggestion that any changes short of separating the elections would alleviate the complications in the present system noting that the process is seriously

flawed because voters are being subjected to an electoral process that is unduly complicated.

Options:

1. *Leave as is (elections for all offices take place together).*
2. *Remove declaration requirement for the African Nova Scotian School Board representative.*
3. *Separate all School Board elections from municipal elections.*
4. *Separate CSAP elections.*
5. *Remove declaration requirement for the CSAP School Board representative.*

Recommendation: Remove the declaration requirement for the ANS voters.

In terms of this report, there is recognition that there are administrative and resource issues that need to be addressed, however there is no agreement on separating the municipal and school board elections. Other than removing the declaration for the ANS voters, no recommendation was made for amendments concerning this issue.

13.0 OTHER SCHOOL BOARD ELECTIONS ISSUES

13.1 Appointment vs Acclamation:

Discussion:

A writer submitted to the Technical Committee that acclamation to school boards in that area is very common. This constituent would like the Committee to consider eliminating school board elections and move to an application or appointment of members because s/he indicated that a lot of good people won't challenge an incumbent candidate in a school board election.

Recommendation: This issue was referred back to the Department of Education for consideration.

13.2 Fee Schedules for School Board Elections

Discussion:

Under the legislation, there is the option of charging school boards for the additional costs of running the school board elections, however, there are no established fee schedules, and municipalities are left to determine the charges. The Committees agreed with the concept of charging only for additional costs but felt they should be identified.

Recommendation: Define additional costs more clearly by listing the items that can be charged back such as: portion of advertising, portion of RO's salary, voting materials, portion of costs of polls/poll officials and transportation costs.

14 OTHER ISSUES

14.1 Combining Provincial and Municipal Elections Acts

Discussion:

With the goal of trying to bring provincial and municipal electoral legislation closer together, it was suggested that the Technical Committee examine the feasibility of having one Act applicable to both provincial and municipal elections. Although an effort has been made to harmonize the two sets of procedures where appropriate, the Technical Committee felt that there are still significant differences remaining which would make combined legislation too long and somewhat cumbersome for persons to use. Given that electoral legislation is used by many different people during the course of an election, care should be taken not to increase the possibility of error in interpreting the applicable rules for a particular election by combining the two in one Act.

Recommendation: That separate Acts be maintained, but that where the issues or procedures are the same or similar, the two Acts be made as similar as possible.

CONCLUSIONS:

The Committees spent considerable time reviewing the issues and would like to acknowledge that differing views on these issues were expressed by some participants.

The Committees request that any interested parties with comments or suggestions on these or any other issues related to municipal elections in Nova Scotia to please make their views known to the Department of Service Nova Scotia and Municipal Relations at the address provided at the beginning of the report.

Appendix A

Recommendations of the Municipal Elections Act Review Committees, in legislative form, for discussion purposes only:

Short title

1 This Act may be cited as the *Municipal Elections Act*.

Interpretation

2 **(1)** In this Act, unless the context otherwise requires, ...

(c) "clerk" means **the clerk of a municipality** ~~a city, town or municipal clerk~~; ...

(e) "council" means **the council of a municipality** ~~a city, town or municipal council~~;

(f) "councillor" means a mayor, warden or council member~~, alderman or town or municipal councillor~~; ...

(pa) "level access" in respect of any premises means premises that are so located that a person may reach the premises from the street or roadway and enter the premises without going up or down any step, stairs or escalator;

(q) "Minister" means the Minister of **Service Nova Scotia and Municipal Relations** ~~Municipal Affairs~~;

(r) "municipality" means a **regional municipality** ~~city, an incorporated~~ town or a **county or district** municipality ~~under the Municipal Act~~;

(s) "nomination day" in the case of a regular election means the second ~~last Monday~~ **Tuesday** in September in a regular election year and in the case of any other election means the third ~~Monday~~ **Tuesday** preceding ordinary polling day;

...

Appointment of Returning Officer

4 (1) The council shall appoint a returning officer, who may be the clerk, **another municipal employee or another person who is not a municipal employee,** to conduct all regular and special elections required under this Act.

Appointment of assistant returning officer

(1A) The Council may appoint an assistant returning officer who shall assist the returning officer in carrying out the returning officers duties and who shall act in the place and in the stead of the returning officer when the returning officer is absent or at the request of the returning officer.

(1B) The council shall appoint the returning officer for a regular election on or before March 15 of the regular election year.

....

13 ...

Nomination day for special election

(3) Nomination day for a special election shall be the third ~~Monday~~ Tuesday preceding ordinary polling day.

...

Qualifications of elector

14 Subject to the other provisions of this Act, every person who

(a) is of the full age of eighteen years on ordinary polling day;

(b) is a Canadian citizen on ordinary polling day; and

(c) is ~~has been~~ ordinarily resident in the municipality ~~or in an area annexed to the municipality for a period of three months immediately preceding ordinary polling day and continues to so reside~~,

is entitled to be registered on the list of electors and to vote.

...

Ordinarily resident

16 ~~(1) Subject to this Section, the place where a person is ordinarily resident is~~

~~(a) if the person is a married person,~~

~~(i) at the place where his family lives and sleeps and to which, when away, he intends to return,~~

~~or~~

~~(ii) if he is living apart from his family with the intent to remain so apart from it,~~

~~then at the place~~

~~where he usually lives and sleeps and to which, when away, he intends to return, without regard~~

~~to where he takes his meals or is employed; and~~

~~(b) if the person is not married, at the place where he usually lives and sleeps, and to which, when away, he intends to return, without regard to where he takes his meals or is employed or where his family lives and sleeps.~~

~~**Unmarried student**~~

~~(2) Where a person is an unmarried student having a family home in the Province, the person is ordinarily resident where that home is.~~

(1) The place where a person is ordinarily resident is the place that has always been, or that has been adopted as, the person's dwelling place and to which the person intends to return when away.

(2) There can only be one place where a person is ordinarily resident and it cannot be lost until another is gained.

(3) Temporary absence by a person from a place where the person is ordinarily resident does not cause a loss or change of place of ordinary residence.

(4) Where a person usually sleeps in one place and has meals or is employed in another place, the person is ordinarily resident in the place where the person sleeps.

(5) Where a person has temporary residential quarters, those quarters are considered to be the place in which the person is ordinarily resident only if the person has no other place the person considers as that person's residence.

(6) Where a person is being provided with food, lodging and other social services by a shelter, hostel or similar institution, the person is ordinarily resident in the shelter, hostel or institution.

(7) Where the rules set out in subsections (1) to (6) are not sufficient to determine the place where a person is ordinarily resident, the place where a person is ordinarily resident shall be determined by the appropriate returning officers by reference to all the facts of the case.

(8) A person who, at the time of voting, is registered and in attendance at an educational institution, and for such purpose resides in a polling division other than that of the person's family home, and if the person is otherwise qualified as an elector, may vote in

either polling division, but the person shall not vote in more than one polling division.

(9) Where a person is ordinarily resident in a dwelling which is generally occupied only during some or all of the months of May to October, both inclusive, and at the time of voting has no other dwelling to which, at will, the person may remove, then the person is ordinarily resident on that date at the place where the dwelling is.

Eligibility as councillor

17 (1) Except as otherwise provided in this Act, every person shall be qualified to be elected as councillor who

...

~~(c) has obtained a certificate in prescribed form from the clerk, treasurer, collector or other official having knowledge of the facts that, as of nomination day, the rates and taxes and other charges that are liens on the person's property of all kinds due to the municipality by the candidate have been fully paid, with the exception of rates for water, electricity or other service of a municipally owned public utility for a period no part of which is earlier than four months prior to nomination day, and~~

....

~~**Application of Section**~~

~~19 (1) This Section applies to a city while it has in effect a by-law made pursuant to subsection (2).~~

~~**Restriction to city**~~

~~(1A) For greater certainty, this Section does not apply to a municipality unless that municipality is a city.~~

~~**City by-law to make Section apply**~~

~~(2) With the approval of the Minister, a city may, by by-law, provide that this Section applies to the city.~~

~~(3) repealed 1991, c. 6, s. 41.~~

~~**Interest in contract with city**~~

~~(4) A person is interested in a contract with a city who~~

~~(a) directly or indirectly, alone or with any other person, by himself or by the intervention of a trustee or third person, holds, enjoys, undertakes or executes any contract, express or implied, for any service or work with or for the city, or with or for any utility, board, commission, committee or official of the city, in respect of which payment is to be made directly or indirectly out of funds or revenue of the city or is concerned or interested in any~~

such contract, service or work;

(b) has, directly or indirectly, alone or with any other person, by himself or by the intervention of a trustee or third person, a contract for the supply of goods, wares, merchandise or materials, or the rendering of services to a contractor, for work for which the city pays or is directly or indirectly liable to pay, or which is subject to the control or supervision of the council or an official of the city;

(c) has an unsatisfied claim for goods, wares, merchandise, materials or services against the city or any utility, board, commission, committee or official of the city, in respect of which payment is to be made out of the funds or revenue of the city, or is directly or indirectly interested in any such claim as a subcontractor, employee or otherwise;

(d) is a surety for the contractor with the city or with any utility, board, commission, committee or official of the city;

(e) is the president, director or manager of a company which holds, enjoys, undertakes or executes any contract, express or implied, or any service or work with or for the city in respect of which payment is to be made directly or indirectly out of the funds or revenue of the city or is concerned or interested in any such contract, service or work.

No interest in contract with city

(5) Notwithstanding subsection (4), a person is not interested in a contract by reason only that he is employed by a school board.

Forfeiture of office of mayor or alderman

(6) A mayor or alderman shall forfeit his office if, while in office, he

(a) knowingly sells or furnishes, or permits any company of which he is the manager or director to sell or furnish, whether the transaction is single or continuous, any goods, wares, merchandise or materials to, or performs any service for, the city, or to or for any utility, board, commission, committee or official of the city, for which payment is to be made out of the funds or revenue of the city, directly or indirectly;

(b) being a professional person receives, takes or enjoys any retaining fee, emolument or reward for any professional or other services rendered to the city or any utility, board, commission, committee or official thereof, or for which payment is to be made out of the funds of the city, directly or indirectly, or is engaged in any such service for reward;

(c) becomes bankrupt or insolvent, or who compromises with or makes an assignment for the benefit of his creditors;

(d) becomes interested in a contract with the city.

...

Use of other list

30 **(1)** By April 15 in a regular election year, the council may by resolution provide that the returning officer conduct an enumeration, use the lists of electors used in the most recent federal or provincial election, or in an election held pursuant to this Act , or any permanent register of electors established and maintained for use in a federal or provincial election, as the basis for the preliminary list of electors for all or part of the municipality~~, if the lists were used in an election held within the twelve months immediately preceding ordinary polling day~~.

~~Use of list in 2000~~

~~(1A) Notwithstanding subsection (1), the council may, by resolution, provide that the returning officer use for the regular election in 2000 the list of electors used in the provincial election held on the twenty-seventh day of July, 1999.~~

Use of other lists for special election

(2) Where a special election is to be held, ~~the council may by resolution provide that~~ the returning officer may conduct an enumeration, use the lists of electors prepared in the most recent federal or provincial election, or in an election held pursuant to this Act, or any permanent register of electors established and maintained for use in a federal or provincial election, as the basis for the preliminary list of electors for all or part of the municipality.

~~**Revision of other lists**~~

~~3) Any list so used, shall form the basis of the preliminary list of electors for the part of the municipality in which the election was held and no enumeration shall be necessary for that part, but such lists shall be revised in accordance with the provisions of this Act.~~

~~**Partial enumeration**~~

~~(4) Where the lists are to be were used in an election held only in part of the municipality, an enumeration shall be carried out in the remainder of the municipality.~~

Use of pending list

(5) Where a federal or provincial election, or an election held pursuant to this Act, has not been held but it is to be held on a day not less than six weeks prior to ordinary polling day, the lists prepared for use in that election may be used as provided in this Section.

~~**Use of permanent register of electors**~~

~~30A (1) Notwithstanding Section 30, the council may by resolution provide that the returning officer use any permanent register of electors established and maintained for use in a federal or provincial election.~~

~~**Agreement respecting National Register of Electors**~~

~~30B (1) The Chief Electoral Officer for the Province may enter into an agreement with~~

~~the Chief Electoral Officer for Canada for the supply of information in respect of the Province contained in the National Register of Electors established pursuant to the Canada Elections Act.~~

~~**Restriction on use of information**~~

~~(2) Any information supplied to the Chief Electoral Officer for the Province pursuant to subsection (1) shall be used for election purposes only.~~

~~**Use by returning officer**~~

~~(3) The giving, by the Chief Electoral Officer for the Province, of information supplied to the Chief Electoral Officer for the Province pursuant to an agreement referred to in subsection (1) to a returning officer for use only by the returning officer as a preliminary list of electors for elections held pursuant to this Act or the Education Act and the use by the returning officer of the information as a preliminary list of electors in an election held pursuant to this Act or the Education Act are election purposes within the meaning of subsection (2).~~

Agreement to protect information

(4) The Chief Electoral Officer for the Province shall not provide ~~information~~ a list of electors or permanent register of electors to a returning officer ~~pursuant to subsection (3)~~ until the council of the municipality or the school board, as the case may be, has entered into an agreement with the Chief Electoral Officer for the Province that protects the privacy and security of the information supplied and any required fee has been paid to the Chief Electoral Officer for the Province.

...

31 ...

Access to index sheets

(2) When the provisions of subsection (1) have been complied with, the returning officer shall retain a copy of the index sheets as corrected by him in the returning officer's ~~his~~ headquarters where it shall be kept available for public inspection at all reasonable times but shall not be photocopied or otherwise reproduced.

...

Posting of preliminary list

32 ...

(5) The preliminary list of electors is not available for distribution and shall not otherwise be open for inspection, disposed of or sold.

...

Public notice of preparation of list

34 (1) After the preliminary lists of electors have been posted, the returning officer or the registrar of voters shall give notice by at least **one insertion** ~~two insertions~~ in a newspaper circulating in the municipality that the preliminary lists of electors have been prepared **or such other notification as is approved by the council on the advice of the returning officer**.

...

Delivery of amended list

38 (1) On or before the **date chosen by the council on the advice of the returning officer** ~~fifteenth day of August~~, the revising officers shall furnish the returning officer or registrar of voters with the preliminary lists of electors together with the amendments that they have made to the lists as a result of their sittings.

...

Date of final list

40 (1) The final lists of electors shall be completed **on the date chosen by the council with advice from the returning officer which shall be at least one day before the first day when nomination papers may be filed.** ~~before the thirty-first day of August.~~

....

Manner of applying for certificate of eligibility

41A (1) Following the completion of the final list and not later than five o'clock in the evening on the Wednesday before ordinary polling day, a person may apply for a certificate of eligibility to vote.

Contents of application

(2) An application shall be accompanied by a declaration under oath of the facts that support the application, and the application may be in the prescribed form or to like effect.

False statement

(3) Any person making a false statement in a declaration is guilty of an offence.

Corrupt practice

(4) Any person inducing or coercing a person to make a false statement in any declaration is guilty of a corrupt practice and is liable to a fine of not less than one thousand dollars nor more than ten thousand dollars, or to imprisonment for a term of not less than ninety days or more than twelve months, or to both.

(5) A returning officer or assistant returning officer who issues a certificate of eligibility shall

(a) complete the certificate in quadruplicate;

(b) consecutively number each certificate in the order of its issue;

(c) deliver the original certificate to the elector;

(d) transmit a copy of the certificate to the deputy returning officer of the polling station where the name of the person to whom the certificate has been issued appears on the list of electors; and

(e) transmit a copy of the certificate to each candidate;

(f) keep a copy of the certificate in his or her headquarters where it shall be kept available for public inspection at all reasonable times.

(6) Once a certificate of eligibility is issued, a person's name is deemed to appear on the final list of electors.

(7) Notwithstanding Section 40, the information from a certificate of eligibility may be incorporated into the final list of electors for purposes of this or other elections.

...

43

Nomination for mayor

(2) Every candidate for the office of mayor shall be nominated by not less than five persons whose names appear on the final list of electors and who are qualified to vote at the election of the mayor ~~a mayor for the city or town~~.

44 ...

Filing of nomination

(2) A nomination shall be filed at the office of the returning officer between the hours of nine o'clock in the forenoon and five o'clock in the afternoon on the second ~~last Monday~~ Tuesday in September.

...

Taxes to be paid

~~(4) The returning officer shall not accept a nomination unless there is attached to the nomination paper a certificate in prescribed form of the clerk, treasurer, collector or other~~

~~official having knowledge of the facts that the rates and taxes and other charges that are liens of all kinds due by the candidate to the municipality, except rates for water, electricity or other service of a municipally owned public utility for a period no part of which is earlier than four months prior to nomination day, have been fully paid.~~

...

Nomination filed prior to nomination day

(9) Notwithstanding subsection (2), a nomination may be filed by appointment with the returning officer during the **five business days** ~~the week~~ immediately preceding nomination day.

...

Acceptance of nomination

48 ....

(4) Once signed by the returning officer, a nomination paper is open to inspection by the public, but shall not be photocopied or otherwise reproduced.

Campaign Contributions Disclosure

49A ....

Exemption from filing

(11) A candidate who is not nominated is not required to file a disclosure statement.

(12) Subject to subsection (11), every candidate who fails to file a disclosure statement within sixty days after regular polling day, or who files a false disclosure statement, is guilty of an offence.

...

Deposit

51 **(1)** Every nomination paper shall be accompanied by a deposit of two hundred dollars, provided that the council may by by-law specify that a lesser deposit, or no deposit, shall be required.

Approval of by-law

~~**(2)** Every by-law passed pursuant to subsection (1) shall be subject to the approval of the Minister.~~

Refund of deposit

(3) Upon the removal of all advertising material within seven days after ordinary polling day and the filing of an affidavit of the candidate in prescribed form confirming the removal, or to the like effect, with the clerk, **and upon return of all copies of the final list of electors in the candidate's possession,** the clerk shall

(a) refund the deposit to a candidate who was elected or who polled at least half of the number of votes polled by the successful candidate; or

(b) refund half of the deposit to a candidate who polled less than half of the number of votes polled by the successful candidate.

...

Forfeiture of deposit

(6) A candidate who fails to file an affidavit **or to return the list of electors** within seven days after the date of the election shall forfeit his **or her** deposit **refund.**

...

Death of candidate

54 ...

Nomination day

(4) Nomination day in an election held pursuant to this Section shall be the third ~~Monday~~ Tuesday preceding ordinary polling day.

Campaigning

54A A candidate or candidate's representative may enter any apartment building or other multiple residence during reasonable hours for the purpose of lawfully campaigning.

54B It is an offence to obstruct a candidate or a candidate's representative in lawfully campaigning.

54C (1) No landlord or person acting on the landlord's behalf may prohibit a tenant from displaying election advertising posters on the premises leased by the tenant and no condominium corporation or any of its agents may prohibit the owner of a condominium unit from displaying election advertising posters on the premises of that person's unit.

(2) Notwithstanding subsection (1), a landlord, person, condominium corporation or agent referred to in that subsection may set reasonable conditions relating to the size or type of election advertising posters that may be displayed on the premises and may prohibit the display of election advertising posters in common areas of the building in which the

premises are found.

Election by acclamation

55 Where only one candidate or only the number of candidates authorized by law to be elected to represent the polling district are officially nominated within the time fixed for that purpose, the returning officer shall so inform the clerk, who shall declare the candidate or candidates duly elected at the first meeting of the council after ordinary polling day, or in the case of a special election where holding a poll is no longer necessary, at the first meeting after being so informed.

.....

Voting compartment

62 **(1)** A polling station shall be in premises with level access, ~~of convenient access~~ and shall contain an adequately lighted compartment where an elector may mark his or her ballot paper in secrecy.

...

~~**Polls for disabled persons**~~

~~**63** **(1)** One or more of the polling stations for a polling district shall be in premises which permit convenient access thereto by an elector with a physical disability which prevents him from voting at the polling station where his name appears on the final list of electors and who has a transfer certificate.~~

~~**Notice of poll for disabled persons**~~

~~**(2)** A returning officer shall give notice of the location of the polling station or stations established pursuant to subsection (1) by publishing the notice not later than the thirteenth day before ordinary polling day in a newspaper circulating in the municipality. R.S., c. 300, s. 63; 1994, c. 26, s. 20.~~

....

Persons permitted at open poll

69 (1) In addition to the deputy returning officer, poll clerk and an elector intending to vote thereat, only the following persons shall be permitted to be in the polling station while the poll remains open:

~~(a) the candidates;~~

(b) the returning officer;

(c) the assistant returning officer;

(d) one agent for each candidate upon delivering his appointment in prescribed form to the deputy returning officer and taking an oath in prescribed form in the poll book;

(e) the official agent of a candidate **unless the official agent is the candidate**;

(f) a peace officer if authorized by the returning officer or the deputy returning officer; and

(g) any person necessarily present in order to comply with any other Section of this Act.

.....

Appointment of agents
71

Official agent representing candidate

(4) Upon exhibiting ~~his~~ **the** appointment to the deputy returning officer and without taking an oath, the official agent, **other than a candidate acting as official agent,** may represent a candidate in any polling station in the same manner as, and in addition to, an agent.

Candidate as own agent
72 A candidate may ~~himself~~ act as **official** ~~agent or assist an agent~~.

...

Issue of proxy paper
76 (1) ....

Contents of application
(2) The application shall be in prescribed form, and shall show

(a) the name of the elector;

(b) the elector's number on the list of electors **or the number of the elector's certificate of eligibility**;

...

(d) the name of the person who is to act as proxy voter for the elector, the number of the proxy voter on the voter's list **or the number of the proxy voter's certificate of eligibility**, where applicable, and the relationship of the elector to the proxy voter, where applicable.

...

Number of votes

82 **(1)** An elector may vote once for mayor, once for each councillor ~~or alderman~~, as the case may be, to be elected, once for each school board member to be elected for **which the elector is qualified to vote** and once on each other matter for which a poll has been granted.

...

Time to employee to vote

82A **(1)** **An employee, who is an elector, shall, while the poll is open on ordinary polling day, have three consecutive hours for the purpose of casting his vote.**

(2) **If the employment of an employee does not permit the use of three consecutive hours of his own time for voting, the employer shall allow the employee such additional time with pay from the hours of his employment as may be necessary to provide the three consecutive hours, but the additional times for voting shall be granted to the employee at the time of day that best suits the convenience of the employer.**

(3) **This Section does not apply to an employee who is engaged in the operation and dispatch of scheduled railway trains, buses, motor transports, ships, and aircraft, and to whom the three consecutive hours mentioned in subsection (1) cannot be allowed without interfering with the scheduled operation or dispatch of the trains, buses, motor transports, ships or aircraft.**

(4) **An employer who refuses, or by intimidation, undue influence, or in any other way, interferes with the use by an employee of the three consecutive hours for voting, or fails to pay the employee, as provided in this Section, is guilty of an offence.**

....

Elector with physical disability

86 **(1)** Where an elector is unable to vote in the manner prescribed by Section 85 because he is blind, unable to read or has a physical disability that prevents the elector from marking the ballot, the elector may vote by a friend and the deputy returning officer shall

(a) require the elector to take an oath in prescribed form that he is

incapable of voting without assistance;

(b) require the friend of the elector to take an oath in prescribed form **that the friend has not previously acted as a friend for any other elector in the election, other than an elector who is a child, grandchild, brother, sister, parent, grandparent, husband or wife of the friend of the election,** that he will mark the ballot as requested by the elector and will keep secret the choice of the elector; and

(c) permit the friend of the elector to accompany the elector into the voting compartment and mark the elector's ballot.

Assistance by D.R.O.

(2) Where the elector requests assistance, the deputy returning officer may act as the friend of the elector but shall not be required to take the oath referred to in clause (b) of subsection (1).

(3) A candidate may not act as the friend of an elector who is not a child, grandchild, brother, sister, parent, grandparent, husband or wife of the candidate.

...

Other entries in poll book

94 A poll clerk shall enter on the record of poll in prescribed form in the poll book

(a) the name and address and the number on the list of electors, **or the number of the certificate of eligibility,** of each elector who applies to vote, with a consecutive number being prefixed to the elector's name in the appropriate column of the poll book;

...

Record of poll

106 At the close of the poll, and in the presence of the poll clerk, candidates **and agents** ~~, agents and electors representing candidates~~ who are present, the deputy returning officer shall, in the order set forth below .....

Separation of ballots

107 (1) After completing the first three entries on each statement of poll, the deputy returning officer shall, in the presence and in full view of the poll clerk, candidates **and agents;** ~~agents and electors~~ who are present, open all ballot boxes used at the polling station and proceed to separate the ballots according to the matter for which a poll was granted.

Count of votes

(2) The deputy returning officer shall then, in the presence and in full view of

the poll clerk, candidates **and agents;** ~~agents and electors~~ who are present, proceed to count the votes ...

Order of count

(3) The ballots for the election of a mayor, if any, shall be counted first, followed by the ballots for councillor ~~or alderman as the case may be~~, followed by the ballots for school board members, and followed by such other ballots as may be in use in the order prescribed by the returning officer, and no ballots shall be counted until the preceding ballots have been counted and the statement of poll has been completed in respect of them.

(4) The candidates and agents present may be present for the count at only one polling station and may not move from polling station to polling station.

...

114 ...

Who may vote at advance poll

(3) Any elector may vote at an advance poll ~~who~~

~~(a) is a person with a physical disability;~~

~~(b) is scheduled to be a patient in a hospital on ordinary polling day;~~

~~(c) objects by reason of religion or other reason of conscience to voting on ordinary polling day;~~

~~(d) expects to be required to be at his place of business or employment during the whole of the time fixed for voting on ordinary polling day;~~

~~(e) is a deputy returning officer, poll clerk or assistant returning officer;~~

~~(f) is an agent appointed by a candidate and who produces his duly completed appointment in prescribed form; or~~

~~(g) has reason to believe that he will be absent from the municipality during the whole of the time fixed for voting on ordinary polling day~~.

...

Notice of advance poll

(6) The returning officer shall cause notice of the advance polls to be published in a newspaper circulating in the municipality at least **once** ~~twice~~ before the first advance poll day and the notices shall appear not less than one week apart.

...

~~**Declaration**~~

~~115 Every person applying to vote at an advance poll shall, before being permitted to do so, sign in the presence of the deputy returning officer in charge of the poll a declaration in prescribed form, which declaration shall be kept by the deputy returning officer with the other records of the poll. R.S., c. 300, s. 115.~~

...

Responsibility for election materials

140 ...

(1A) The poll books shall be open for inspection for twenty-one days after ordinary polling day, but shall not be photocopied or otherwise reproduced.

...

146A (1) A council may by by-law authorize voters to vote by mail or other voting method.

(2) The by-law shall provide for the system of voting for any election that occurs more than xx days after the by-law takes effect, including:

(a) notification of electors,
(b) form of the ballots,
(c) swearing in and voting on election day,
(d) method of counting the ballots or votes,
(e) rejection of ballots or votes.

(3) The by-law may provide for:

(a) contents of voters kits,
(b) places where voting can occur, ballots can be delivered instead of mailing, if applicable,
(c) process for sorting, storing, cataloguing any ballots received,
(d) any matter or thing necessary to effectively conduct the election.

(4) Not fewer than 60 days prior to ordinary polling day, the returning officer shall establish procedures and forms for the conduct of voting in accordance with the by-law; and provide a copy of the procedures and forms to each candidate for election.

(5) When a by-law under this Section is in effect, the sections in this Act respecting the matters dealt with by by-law apply only if the by-law specifies that those sections

apply.

...

Offences

155 **(1)** Every person who ...

(b) at a polling place on ordinary polling day or at the advance polling place on advance polling day, posts or displays in, or within two hundred feet of any wall of ~~a polling place or~~ the building in which a polling place is situated any literature, emblem, ribbon, flag, sign, banner, card, bill, poster or device that tends to support a candidate;

is guilty of an offence...